

Exhibit D

From: Harwood, Chris <charwood@maglaw.com>

Sent: Monday, October 5, 2020 12:03 PM

To: Greg Gutzler <ggutzler@dicellolevitt.com>; Spiro, Edward <ESpiro@maglaw.com>; Adam J. Levitt <alevitt@dicellolevitt.com>; Justin Hawal <jhawal@dicellolevitt.com>; Lisa Haba <lisahaba@habalaw.com>; Megan McKenzie <mmckenzie@dicellolevitt.com>; Frank Amanat <FAmanat@dicellolevitt.com>; Tunis, Brent <btunis@maglaw.com>

Subject: RE: Confirmation that records will be retained by the Nygard entities, and not destroyed

Greg,

Since receiving your below email -- and related email to the Court -- we have submitted two letters to the Court addressing the documents and data in the Receiver's possession, custody and control. As set forth in our letters, we understand that the Canadian Court is overseeing a process (in which you are participating) pursuant to which preservation issues concerning the documents and data in the Receiver's possession, custody and control will be addressed, and that none of those records are in imminent danger of being abandoned or destroyed. We disagree with the characterizations in your email regarding your prior spoliation motion, but see no reason to engage with you on those disagreements here. Through our letters to the Court, we believe that we have adequately responded to the issues raised in your emails, and as per our most recent letter, intend to submit a further letter to the Court following the October 14 conference before the Canadian Court.

Chris

Christopher B. Harwood

Partner

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From: Greg Gutzler <ggutzler@dicellolevitt.com>

Sent: Monday, September 28, 2020 9:20 PM

To: Harwood, Chris <charwood@maglaw.com>; Spiro, Edward <ESpiro@maglaw.com>; Adam J. Levitt <alevitt@dicellolevitt.com>; Justin Hawal <jhawal@dicellolevitt.com>; Lisa Haba <lisahaba@habalaw.com>; Megan McKenzie <mmckenzie@dicellolevitt.com>; Frank Amanat <FAmanat@dicellolevitt.com>

Cc: Greg Gutzler <ggutzler@dicellolevitt.com>

Subject: Confirmation that records will be retained by the Nygard entities, and not destroyed

Chris,

- 1) Please confirm that counsel for the Nygard entities will preserve the evidence that the receiver has indicated it may destroy. In an email to us, counsel for the receiver stated: "The draft proposed Order

only seeks authorization to destroy, abandon or otherwise dispose of records of the Nygard entities only in the event the Nygard entities do not take back possession and control of them. Our understanding is that the Nygard entities do wish to take back control and possession of them, which would then put everyone back in the same position they were prior to the Receivership Order, with the Nygard entities continuing to have obligations owing to counter-parties in litigation as to retention, disclosure and production of relevant records.” Given your obligations to preserve documents, and our earlier spoliation motion that showed your client is not observing protocols and safeguards, we need your confirmation immediately.

- 2) Similarly, please confirm that all backup tapes will be preserved. In your argument opposing our spoliation motion, your client avoided sanctions by you assuring the Court that the receiver had all records still in its possession and that the thousands of documents destroyed by Fenske, et al (such as withdrawals of tens of millions of dollars from the corporate bank accounts after Nygard was aware the FBI was investigating him and the Nygard entities for sex trafficking), were not actually destroyed because they were preserved on backup tapes.

- 3) Given your argument noted in point 2, please confirm you will be producing backup tapes.

If we don’t receive satisfactory responses to these issues immediately, we will be forced to take action with the Court.



Greg G. Gutzler

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